

 NEW YORK STATE	Corrections and Community Supervision DIRECTIVE		TITLE Service-Disabled Veteran-Owned Business	NO. 2604S
				DATE 10/30/2020
SUPERSEDES	DISTRIBUTION A	PAGES PAGE 1 OF 10	DATE LAST REVISED	
REFERENCES (Include but are not limited to) See Section II			APPROVING AUTHORITY 	

I. PURPOSE: This directive is applicable to all Contracting Units under the jurisdiction of the Department of Corrections and Community Supervision (DOCCS), including Central Office, Division of Correctional Industries, all facilities, and all regional/area offices. The purpose of this directive is to:

- A. Establish procedures that will assist DOCCS staff in their efforts to purchase commodities and services from responsible New York State certified Service-Disabled Veteran-Owned (SDVOB) firms; and
- B. Provide policy and procedures for reporting SDVOB activities.

II. REFERENCES

- Executive Law Article 17B: Section 369
- NYS Finance Law Article XI
- State Printing and Public Documents Law
- 9 NYCRR Section 252.1
- Directive #2914, "Contract Procurement, Monitoring, and Fiscal Responsibilities"
- Directive #2916, "Purchasing Supplies and Equipment"
- NYS Procurement Guidelines – Maintained by the Office of General Services (OGS)

III. DEFINITIONS

- A. Service-Disabled Veteran-Owned Business Enterprise (SDVOB): Shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, including not-for-profit corporations, that is:
 - 1. At least 51 percent owned by one or more service-disabled veterans;
 - 2. An enterprise in which such service-disabled veteran ownership is real, substantial, and continuing;
 - 3. An enterprise in which such service-disabled veteran ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
 - 4. An enterprise authorized to do business in this State and is independently owned and operated;
 - 5. An enterprise that is a small business as defined herein; and
 - 6. Certified by OGS.

- B. Goal: Shall mean the percentage of aggregate agency expenditures targeted for the participation of certified SDVOBs sought to be included in State procurement opportunities as prime contractors, subcontractors, suppliers, consultants, joint ventures, teaming agreements, or other similar arrangements.
- C. Service-Disabled Veteran: Shall mean:
1. In the case of the United States Army, Navy, Air Force, Marines, Coast Guard, Army National Guard or Air National Guard, and/or Reserves thereof, a veteran who received a compensation rating of ten percent or greater from the United States Department of Veterans Affairs or from the United States Department of Defense because of a service-connected disability incurred in the line of duty; and
 2. In the case of the New York guard or the New York naval militia and/or reserves thereof, a veteran who is certified by the New York State Division of Veterans' Affairs, pursuant to the appropriate provisions contained within the Code of Federal Regulations, as having incurred an injury equivalent to a compensation rating of ten percent or greater from the United States Department of Veterans Affairs or from the United States Department of Defense because of a service-connected disability incurred in the line of duty.
- D. Set Aside: Shall mean the reservation in whole or in part of certain procurements by State agencies subject to guidelines to be issued by the commissioner regarding discretionary purchasing, bidding where more than one certified SDVOB can provide the construction, construction services, non-construction services, technology, commodities, products, and other classifications that will facilitate meeting the goal and meeting state agencies' form, function, and utility.
- E. SDVOB Directory: Shall mean the directory of certified SDVOB enterprises for use by State agencies and contractors in complying with the provisions of Article 17-B of the Executive Law.
- NOTE: Every Contracting Unit should have access to the SDVOB Directory, which is readily available online at: <https://ogs.ny.gov/Veterans/>.
- F. Veteran: Shall mean a person who served in, and who has received an honorable or general discharge from, the United States Army, Navy, Air Force, Marines, Coast Guard, and/or Reserves thereof, and/or in the Army National Guard, Air National Guard, New York Guard, and/or the New York Naval Militia.
- G. State Contract: Shall mean:
1. A written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000, whereby a contracting agency is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, commodities, supplies, equipment, materials, technology, or any combination of the foregoing to be performed for, rendered, or furnished to the contracting agency;
 2. A written agreement in excess of \$100,000 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and

3. A written agreement in excess of \$100,000 whereby the owner of a State-assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair, or renovation of real property and improvements thereon for such project.
- H. Subcontract: Shall mean a contract between a Primary Contractor to an original contract and a third party; particularly, one who provides all, or a specified part of the work, materials, or services required in the original contract.
- I. Preferred Source: Products or services provided by the Division of Correctional Industries, New York State Preferred Source Program for the Blind (NYSPSP), and Industries for the Disabled.
- J. Joint Venture: An association of two or more businesses which is formed to carry out a particular business activity for profit in which they may combine property, capital, efforts, skills, or knowledge. The association is limited in scope and duration; consequently, a joint venture can never be certified.
- K. Discretionary Purchase: Agency purchases of commodities or services that cannot be supplied by a preferred source, OGS Centralized Commodity Contracts or OGS Centralized Services, and Technology Contracts. Purchases below an established dollar level that are authorized by law to be made without a formal competitive process (see Section XI, Procurement Guidelines and Procedures).
- L. Contracting Unit: Any unit with procurement responsibilities such as local business offices, Central Office Contract Procurement Unit (CPU), Central Office Purchasing Unit, and Correctional Industries.
- M. Contractor: An individual, a business, a not-for-profit corporation, or any other party to a State contract, or a bidder in conjunction with the award of a State contract or proposed party to a State contract.
- N. Good Faith Efforts: The documented due-diligence and sustained efforts made with the deliberate intention to produce desired contractual obligations and/or required goals.
- O. MWBE/SDVOB Team: This team coordinates/monitors the Department's SDVOB efforts.

IV. POLICY: It is the policy of DOCCS to actively encourage the greatest possible participation of service-disabled veterans in all DOCCS procurement opportunities and to make every effort to meet the goals established pursuant to Article 17-B of the Executive Law.

Article 17-B of the Executive Law established the Division of Service-Disabled Veterans' Business Development (DSDVBD) and mandates the DSDVB to direct and monitor New York State's activities relating to the utilization of SDVOBs on State contracts. This law also requires that operational guidelines are established to assist SDVOBs with obtaining a fair share of contracts for the procurement of goods and services awarded by the State.

Accordingly, in compliance with Article 17-B, DOCCS is required to submit quarterly SDVOB utilization reports to DSDVBD that are inclusive of Central Office, Correctional Industries, and all facilities and regional/area offices.

Goals: In accordance with Article 17-B, it shall be the policy of DOCCS to implement an SDVOB program that has a minimum established goal of six percent of purchases going to SDVOBs. This goal shall be based upon the total dollar value of consultant services contracts and procurement for goods and services awarded by the Department.

- V. STANDARD CONDITIONS FOR ALL CONSTRUCTION, CONSULTANT, SERVICE, AND PURCHASE CONTRACTS:** The Contracting Unit must require the Primary Contractor to agree that they shall make “Good Faith Efforts” to subcontract a minimum of six percent of the total dollar value of the contract to SDVOBs. The goal shall be contained in conformance with the Contractor Requirements for SDVOBs (Form [SDVOBCR](#), [SDVOBNA](#), or [SDVOBSA](#)) as applicable to all State contracts.

Failure to obtain these percentages or demonstrate a “Good Faith Effort” may lead to withholding of payment(s) or contract termination.

- VI. SET ASIDES:** State agencies may reserve or set aside certain procurement opportunities for purposes of achieving the goals for participation of SDVOBs to achieve the objectives of Article 17-B of the Executive Law.

The Commissioner, in consultation with State agencies, shall develop and provide guidance for conducting procurements through the use of set asides with consideration given, but not limited to:

- A. Ensuring that a competitive field of certified SDVOB enterprises would be able to participate in such procurement opportunities;
- B. The processes to be used in the exercise of discretionary authority to make purchases from certified SDVOB enterprises;
- C. Contract consideration shall be reasonable and reflective of fair market value;
- D. Developing and implementing pilot initiatives to initially test optimal use of set asides by State agencies;
- E. Securing input from SDVOBs and other interested parties on the use of set asides;
- F. The impact a set aside could have relative to the State agency achieving its goals for participation by SDVOBs in their procurements; and
- G. Other factors as may be relevant to the exercise of set asides in procurement contracts.

VII. SERVICE-DISABLED VETERAN-OWNED BUSINESS UTILIZATION PLANS AND PROGRAM WAIVER

- A. DOCCS has established certain statewide goals which it seeks to achieve in implementing the SDVOB Program. To promote participation of SDVOBs, Contracting Units must check all available SDVOB source documents to determine if any applicable contractors offer the commodity or service being purchased. The Contracting Unit will ensure that each individual contract shall have the State minimum goals for SDVOB participation at the time of execution.
- B. After the award of a bid, but prior to issue of contract, the Contractor shall submit [Form #SDVOB100](#), “Utilization Plan.” The Contracting Unit will review [Form #SDVOB100](#), using the SDVOB Directory to verify that Subcontractors reported are SDVOB certified.

After completion of the review, the Contracting Unit will issue a written notice, [Form #SDVOBNAD](#), "Notice of Acceptance or Deficiency," to the contractor within 20 days of receipt.

1. Notice of Acceptance: An SDVOB Notice of Acceptance will be accompanied by the following SDVOB form to be submitted by the Contractor to the Contracting Unit on a monthly basis upon award of the contract: [Form #SDVOB101](#), "Contractor's Monthly SDVOB Compliance Report," which lists all NYS Certified SDVOBs used to perform the State contract and the actual dollar amounts paid to the NYS Certified SDVOBs. The information supplied on this form must be checked for accuracy by accessing the SDVOB Directory and verifying that companies reported are certified.

NOTE: After a contract is awarded, the monthly reports are due no later than the 10th day after the end of each month.

2. Notice of Deficiency shall include:
 - a. The shortfall amount and/or shortfall percentage in SDVOB utilization that is contractually required;
 - b. The names of any SDVOBs which are not acceptable for the purpose of complying with the goal requirements; and
 - c. Elements of the contract scope of work which the Contracting Unit has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the contract by SDVOBs.
3. The Contractor shall respond to the Contracting Unit's Notice of Deficiency with a written remedy for correcting deficiencies and/or provide a "Good Faith Effort" statement within seven business days of receipt of deficiency. If the Contracting Unit determines that a Contractor has made "Good Faith Efforts" but is unable to comply with SDVOB goals because of the lack of availability of SDVOBs in their respective region, the Contractor will be directed by the Contracting Unit to submit in writing, a request for partial or total waiver of SDVOB participation goals. [Form #SDVOB200](#), "Application for Waiver of SDVOB Participation Goal," will be provided by the Contracting Unit.
4. The Contracting Unit will review and respond to the waiver request for approval or denial within 10 business days. The Contracting Unit may deny a request for a waiver. However, if the Contracting Unit determines that the waiver request should be approved; [Form #SDVOB200](#), along with all supporting documentation, should be forwarded to the (MWBE/SDVOB Team for review and final approval. MWBE/SDVOB Team's decision will be sent to the Contracting Unit within five business days. After receipt of MWBE/SDVOB Team's decision, the Contracting Unit will notify the Contractor within five business days regarding the Department's decision.
5. A Contractor may submit a request for partial or total waiver of SDVOB goals at any time during their contract period, but before requesting final payment.

NOTE: Failure to submit [Form #SDVOB101](#), and/or other reports or information as requested by DOCCS in a timely manner, may result in payments under the contract being delayed until such reports or other information have been received.

VIII. CONTRACTOR'S FAILURE TO COMPLY WITH TERMS OF THE AGREEMENT

- A. Goal percentages established in this contract are subject to the requirements of Article 17-B of the Executive Law and regulations adopted pursuant thereto.
- B. The parties agree as a condition of the contract to be bound by the provisions of Section 369 of the Executive Law.
- C. The Contractor shall submit, and shall require Subcontractors to submit, compliance reports on forms at intervals to be established by DOCCS. Reports not submitted at such times as required by DOCCS may be cause for the delay of scheduled payments to the Contractor.

IX. MWBE/SDVOB TEAM RESPONSIBILITIES

- A. The MWBE/SDVOB Team shall be responsible for implementing the SDVOB Program of the Department and for reviewing and reporting on the Department's activities and progress in establishing an effective SDVOB Program. The MWBE/SDVOB Team will act primarily as a compliance authority for all Contracting Unit SDVOB activities.
- B. The MWBE/SDVOB Team is available to provide technical assistance and training to Central Office, Division of Industries, facility personnel responsible for the SDVOB program requirements, and regional/area office personnel.
- C. The MWBE/SDVOB Team shall continue its involvement in public outreach efforts to community organizations representing SDVOBs. Whenever possible, the MWBE/SDVOB Team and facilities will arrange meetings and host SDVOB workshops/seminars for the purpose of sharing information about the Department's SDVOB Program, goals, and objectives.

X. INSTITUTION STEWARD/CONTRACTING UNIT AND/OR EQUIVALENT RESPONSIBILITIES

- A. The Institution Steward or equivalent is charged with the task of ensuring SDVOBs are provided equal opportunity to bid on all discretionary purchases of goods and services contracts in accordance with provisions specified in Executive Law Article, 17-B.
- B. The Institution Steward or equivalent shall enforce specific procedural guidelines for the purchasing agents within the Contracting Unit relative to solicitation and utilization of SDVOBs in the procurement process.
- C. The Institution Steward or equivalent shall monitor the efforts of their respective Contracting Units in identifying SDVOBs to be contacted as services or goods are needed.
- D. In addition, the Institution Steward or equivalent shall continue to encourage collaboration and open communication between the Contracting Unit's purchasing staff and SDVOB representatives to obtain catalogues, price lists, and additional descriptive materials in order to enhance opportunities to utilize goods and services offered by these firms.
- E. Annual M/WBE-SDVOB Training: On an annual basis and upon being hired, all business office staff are required to review the M/W Business Enterprise-SDVOB training that is available on the DOCCS Training site at: *Business Office Procedures and Information>MWBE>Training and Resources>MWBE SDVOB Training for Stewards*. One hour of training credit is allowed for completing this training.

XI. PROCUREMENT GUIDELINES AND PROCEDURES

- A. General: It is the responsibility of all Department employees who have purchasing responsibilities or purchasing authority to solicit SDVOBs for all DOCCS contracts to assist such businesses to increase their involvement with the State of New York.
- These same employees will supply all requested information, assistance, and reports in matters concerning the Department budget, expenditures, plans, forms, and programs concerning SDVOB development to the MWBE/SDVOB Team.
- The said employees shall convey opportunities to SDVOB firms in full support of the Department's policy and the NYS Procurement Guidelines. These guidelines specify that a single quotation from a responsible Contractor of items not available from a preferred source, or on centralized contract, in amounts of up to \$500,000 for purchases made in accordance with the State Finance Law, may be utilized to expand SDVOB opportunities.
- All contracting units must maintain contractor files for specialized items unique to the Department and maintain a current file of active SDVOBs.
- All Contracting Units must compile information and prepare periodic reports as required by control agencies, administrative staff, the Budget Unit, and the MWBE/SDVOB Team.
- B. Sources: The following procedures are based on the NYS Procurement Guidelines, pursuant to Article XI of the State Finance Law and Section 1-9 of the State Printing and Public Documents Law.
- C. Open Market Purchases of \$0 to \$14,999
1. Check all available small business and SDVOB source documents to determine if any applicable Contractors offer the commodity or service being purchased.
 2. Purchase directly from an SDVOB Contractor if the Contractor meets the following criteria:
 - a. Provides a quality product or service;
 - b. Offers the product or service at a reasonable price (see Section XI-G, Reasonable Pricing); and
 - c. Has reasonable delivery terms.
- D. Open Market Purchases of \$15,000 and Over: Purchases of commodities or services of more than \$15,000 can be purchased using either of the following methods:
1. Discretionary purchasing between \$15,000 and \$500,000 allows agencies to promote the participation of SDVOBs. This method may not require competitive bidding. To use this method, you must:
 - a. Identify a responsible (certified) SDVOB;
 - b. Request the selected SDVOB to offer a price for supplying this requirement; and
 - c. Determine that the price offered is reasonable and prepare a statement indicating the basis for this determination (see Section XI-G).

2. Formal competitive bidding for purchases of \$50,000 and over: This method does not provide an opportunity to select an SDVOB Contractor which is not the lowest responsible bidder. However, agencies should utilize the SDVOB Directory to expand bid opportunities to SDVOBs.

All purchases \$50,000 and over must be advertised in the Contract Reporter. Although not required, advertising purchases between \$15,000 and \$49,999 is recommended as best practice to ensure competitive pricing. Additionally, any purchase over \$50,000 must have Office of State Comptroller (OSC) approval.

- E. Contracts Over \$25,000: Pursuant to the SDVOB policy of the Department, goals have been established to ensure Contractors exercise "Good Faith Efforts" to utilize SDVOB enterprises on all purchases/contracts.

Every service, construction, consultant, or purchase contract involving a Department expenditure of \$25,000 or more shall include a "Contractor Requirements for SDVOB" Appendix. There are three variations of the Contractor Requirements Appendix for SDVOBs: [SDVOBCR](#) applies to contracts with SDVOB goals, [SDVOBNA](#) applies to contracts with no SDVOB goals, and [SDVOBSA](#) applies to SDVOB Set-Asides. The Contractor Requirements Appendix shall set forth the SDVOB requirements of each Contractor working on the contract.

Furthermore, the above-noted SDVOB Contractor Requirements require the Contractor to supply information on Subcontractors and submit certain other compliance reports mandated by the Department of Economic Development and the DSDVBD.

- F. Change Orders and Amendments: Whenever a change order or contract amendment will increase the value of a service contract which was previously under \$100,000 to \$100,000 or more, or any service which was previously under \$25,000 to \$25,000 or more, the provisions of Article 17-B of the Executive Law will apply, and the appropriate paragraphs and contract provisions will be included in the change order or amendment.
- G. Reasonable Pricing: OGS, with the concurrence of OSC, has issued the following guidelines for determining reasonableness of price. These guidelines are also used as a basis for the verification and approval process.

"In general, the reasonableness of price may be determined by using one or more of the following actions: Comparing the price offered against product catalogs, published price lists, retail market surveys; consulting historical records of previous purchases for the same or similar items, consulting with other public and/or private purchasing officials; using professional experience and judgment, etc."

Some examples of appropriate statements in determining reasonable pricing are:

1. "Comparison with latest price catalog(s) shows this pricing to be lower than manufacturer's suggested selling price";
2. "A survey of the local retail market indicates this pricing is within the same price range";
3. "Review of previous purchases made on similar items shows this pricing to be at the same discount level";
4. "A telephone inquiry to a local government agency indicated it is paying a similar price for the same product"; and

5. "Based on years of purchasing experience, the price offered by this SDVOB Contractor is judged to be reasonable and acceptable."

H. Miscellaneous

1. Any firm that claims to be an SDVOB but is not included in the OGS SDVOB Directory should be encouraged to contact DSDVBD to obtain the appropriate certification.
2. An SDVOB firm that does not respond to a bid/quotation request should continue to be included on the Contracting Unit's list of prospective Contractors until no response is received on three separate and consecutive occasions. At which time, that Contractor should be contacted in writing by the Contracting Unit to verify their withdrawal from active participation.
3. Appropriate documentation should be maintained to be used to compile quarterly activity reports, as well as to substantiate the Contracting Unit's efforts to achieve established participation goals.
4. DOCCS is committed to an aggressive SDVOB procurement program pursuant to the requirements of Executive Law Article 17-B. Increased utilization of discretionary thresholds is one of the many methods available to help accomplish the objectives of this program. In order to achieve increased participation of the numerous SDVOBs located in New York State, maximum utilization of these thresholds must be made by all purchasing staff.

XII. REPORTING PROCEDURES

- A. State and contracting agencies shall submit a quarterly compliance report in a format and manner provided by the DSDVBD, including information regarding all Contracting Units' SDVOB activities.
- B. To enable the Department to meet the reporting requirements of the State's SDVOB Program and to analyze and strengthen our own program, each facility must submit reports of its SDVOB activity.

The Institutional Steward (or the functional equivalent) in each Contracting Unit is responsible for the timely and accurate submission of all appropriate reports and forms to the MWBE/SDVOB Team.
- C. Participation in this program and completion of the quarterly report is not optional. Facility administrators must take immediate steps to ensure that their Contracting Unit is in compliance.
- D. Instructions for completing facility utilization forms are included with each form.

XIII. LIST OF FORMS / DOCUMENTS REFERENCED IN THIS DIRECTIVE

Document Abbreviated Name	Document	Primary Section Referenced
SDVOB100	SDVOB Utilization Plan	VII-B
SDVOBNAD	SDVOB notice of Acceptance or Deficiency	VII-B
SDVOB101	Contractor's Monthly SDVOB Compliance Report	VII-B-1
SDVOB200	Application for Waiver of SDVOB Participation Goal	VII-B-3
SDVOBCR SDVOBNA SDVOBSA	Contractor Requirements for SDVOB: <ul style="list-style-type: none">• SDVOBCR for contracts with SDVOB goals• SDVOBNA for contracts with no SDVOB goals• SDVOBSA for SDVOB Set-Asides	V-A

Editable versions of the above-named forms can be obtained from the MWBE/SDVOB Team by email at: mwbe@doccs.ny.gov or by phone at: (518) 436-7886 ext.3135.

NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

SDVOB UTILIZATION PLAN

☐ Initial Plan ☐ Revised Plan Contract/Solicitation # _____

INSTRUCTIONS: This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each NYS **Certified** Service-Disabled Veteran-Owned Business (SDVOB) under the contract. By submission of this Plan, the Bidder/Contractor commits to making good faith efforts in the utilization of SDVOB subcontractors and suppliers as required by the SDVOB goals contained in the Solicitation/Contract. Making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Firms that do not perform commercially useful functions may not be counted toward SDVOB utilization. Attach additional sheets if necessary.

BIDDER/CONTRACTOR INFORMATION		SDVOB Goals in Contract
Bidder/Contractor Name:	NYS Vendor ID:	%
Bidder/Contractor Address (Street, City, State, and Zip Code):		

Bidder/Contractor Telephone Number:	Contract Work Location/Region:
Contract Description/Title:	

CONTRACTOR INFORMATION			
Prepared by (Signature):	Name and Title of Preparer:	Telephone Number:	Date:
Email Address:			

If unable to meet the SDVOB goals set forth in the solicitation/contract, bidder/contractor must submit a request for waiver on the SDVOB Waiver Form.

SDVOB Subcontractor/Supplier Name:	
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Please identify the person you contacted:	Federal Identification No.:	Telephone No.:
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Address:	Email Address:
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Detailed description of work to be provided by subcontractor/supplier:

Dollar value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____%

SDVOB Subcontractor/Supplier Name:	
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Please identify the person you contacted:	Federal Identification No.:	Telephone No.:
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Address:	Email Address:
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Detailed description of work to be provided by subcontractor/supplier:

Dollar value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____%

FOR DOCCS USE ONLY

DOCCS Authorized Signature:	<input type="checkbox"/> Accepted	<input type="checkbox"/> Accepted as Noted	<input type="checkbox"/> Notice of Deficiency
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NAME (Please Print):	SDVOB %/\$ _____	Date Received:	Date Processed:
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Comments:

NYS CERTIFIED SDVOB SUBCONTRACTOR/SUPPLIER INFORMATION: The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/default.asp>.

Note: All listed Subcontractors/Suppliers will be contacted and verified by DOCCS.

ADDITIONAL SHEET

NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

Bidder/Contractor Name:	Contract/Solicitation # _____
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SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed description of work to be provided by subcontractor/supplier:			
Dollar value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %			

SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed description of work to be provided by subcontractor/supplier:			
Dollar value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %			

SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed description of work to be provided by subcontractor/supplier:			
Dollar value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %			

SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed description of work to be provided by subcontractor/supplier:			
Dollar value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____ %			

NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

CONTRACTOR'S MONTHLY SDVOB COMPLIANCE REPORT (DUE ON THE 10TH DAY OF EACH MONTH FOR THE PRECEDING MONTH'S ACTIVITY AS EVIDENCE TOWARDS ACHIEVEMENT OF THE SDVOB GOALS ON THE CONTRACT)

Contract No.: _____

Contractor/Vendor Name, Address, and Phone No.:	Contractor/Vendor Federal ID No.:		SDVOB Goals		Reporting Period	
	Description of Project:		%		Month	Year
Firm Name, Address, and Phone Number (List All Firms)	Description of Work or Supplies Provided	Designation		Payment This Month		Contract Amount
Federal ID No.:		<input type="checkbox"/> SDVOB <input type="checkbox"/> Supplier <input type="checkbox"/> Sub <input type="checkbox"/> Team <input type="checkbox"/> Broker <input type="checkbox"/> Other <input type="checkbox"/> Joint Venture <input type="checkbox"/> No Written Contract <input type="checkbox"/> Written Contract		<input type="checkbox"/> No Payment This Month		
Federal ID No.:		<input type="checkbox"/> SDVOB <input type="checkbox"/> Supplier <input type="checkbox"/> Sub <input type="checkbox"/> Team <input type="checkbox"/> Broker <input type="checkbox"/> Other <input type="checkbox"/> Joint Venture <input type="checkbox"/> No Written Contract <input type="checkbox"/> Written Contract		<input type="checkbox"/> No Payment This Month		
Federal ID No.:		<input type="checkbox"/> SDVOB <input type="checkbox"/> Supplier <input type="checkbox"/> Sub <input type="checkbox"/> Team <input type="checkbox"/> Broker <input type="checkbox"/> Other <input type="checkbox"/> Joint Venture <input type="checkbox"/> No Written Contract <input type="checkbox"/> Written Contract		<input type="checkbox"/> No Payment This Month		
Federal ID No.:		<input type="checkbox"/> SDVOB <input type="checkbox"/> Supplier <input type="checkbox"/> Sub <input type="checkbox"/> Team <input type="checkbox"/> Broker <input type="checkbox"/> Other <input type="checkbox"/> Joint Venture <input type="checkbox"/> No Written Contract <input type="checkbox"/> Written Contract		<input type="checkbox"/> No Payment This Month		

_____ Signature	_____ Print Name and Title	_____ Date
Submission of this form constitutes the Contractor's acknowledgement as to the accuracy of the information contained herein. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, suspension and/or termination of the Contract.		

For NYS DOCCS Use Only	
Reviewed By: _____	Date: _____

NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

APPLICATION FOR WAIVER OF SDVOB PARTICIPATION GOAL

(must be submitted before requesting final payment on the Contract)

Section 1: Basic Information			
Contractor's Name:		Federal Identification Number:	
Street Address:		Email Address:	
City, State, Zip Code:		Telephone: () -	
Contract Number:		SDVOB CONTRACT GOALS	
		%	
Section 2: Type of SDVOB Waiver Requested			
<input type="checkbox"/> Total	<input type="checkbox"/> Partial	If partial waiver, please enter the revised SDVOB percentage:	%
Please explain the reason for the waiver request:			
Section 3: Supporting Documentation			
Provide the following documentation as evidence of your good faith efforts to meet the SDVOB goals set forth in the contract and in support of your waiver application:			
<input type="checkbox"/> Attachment A. Copies of solicitations to SDVOBs and any responses thereto. <input type="checkbox"/> Attachment B. Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected. <input type="checkbox"/> Attachment C. Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by [NYS DOCCS] with certified SDVOBs whom [NYS DOCCS] determined were capable of fulfilling the SDVOB goals set forth in the contract. <input type="checkbox"/> Attachment D. Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs. <input type="checkbox"/> Attachment E. Other information deemed relevant to the request.			
Section 4: Signature and Contact Information			
By signing and submitting this form, the Contractor certifies that a good faith effort has been made to promote SDVOB participation pursuant to the SDVOB requirements set forth under the solicitation or Contract. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, and a suspension or termination of the contract.			
Prepared By: (Signature)			Date:
Name and Title of Preparer (Print or Type):			

For NYS DOCCS Use Only	
Reviewed By:	Date:
Decision: <div><input type="checkbox"/> Full SDVOB waiver granted <input type="checkbox"/> Partial SDVOB waiver granted; revised SDVOB goal: _____ % <input type="checkbox"/> SDVOB waiver denied</div>	
Approved By:	Date:
Date Notice of Determination Sent:	
Comments	

APPENDIX

SOLICITATION AND CONTRACT TEXT WHEN SETTING SDVOB GOALS

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (SDVOB), thereby further integrating such businesses into New York State's economy. Department of Corrections and Community Supervision (DOCCS) recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of DOCCS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

I. Contract Goals

- A. DOCCS hereby establishes an overall goal of ___% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>. Questions regarding compliance with SDVOB participation goals should be directed to the DOCCS Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).

II. SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB100 with their bid.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission

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of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to DOCCS.

- C. DOCCS will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of DOCCS acceptance or issue a Notice of Deficiency within 20 days of receipt.
- D. If a Notice of Deficiency is issued, Bidder/Contractor agrees that it shall respond to the Notice of Deficiency, within seven business days of receipt, by submitting to DOCCS a written remedy in response to the Notice of Deficiency. If the written remedy that is submitted is not timely or is found by DOCCS to be inadequate, DOCCS shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by DOCCS, a request for a partial or total waiver of SDVOB participation goals on SDVOB200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. DOCCS may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
 - (a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - (b) If a Bidder fails to submit a written remedy to a Notice of Deficiency;
 - (c) If a Bidder fails to submit a request for waiver; or
 - (d) If DOCCS determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DOCCS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

III. Request for Waiver

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at DOCCS for guidance.
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on [SDVOB200](#), accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by DOCCS at that time, the provisions of clauses II (C), (D) & (E) will apply. If the

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documentation included with the Bidder's/Contractor's waiver request is complete, DOCCS shall evaluate the request and issue a written Notice of Acceptance or Denial within 20 days of receipt.

- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to DOCCS but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If DOCCS, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report ([SDVOB101](#)), determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, DOCCS may issue a Notice of Deficiency to the Contractor. The Contractor must respond to the Notice of Deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to DOCCS.

IV. Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto;
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected;
- (3) Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by DOCCS with certified SDVOBs whom DOCCS determined were capable of fulfilling the SDVOB goals set in the Contract;
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs;
- (5) Other information deemed relevant to the waiver request.

V. Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to DOCCS during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using [SDVOB101](#) available on the DOCCS website and should be completed by the Contractor and submitted to DOCCS by the 10th day of each month during the term of the Contract, for the preceding month's activity to: MWBE@doccs.ny.gov.

VI. Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

ALL FORMS ARE AVAILABLE AT: <http://www.doccs.ny.gov/RFPs/rfps.html>.

APPENDIX

SOLICITATION AND CONTRACT TEXT WHEN THERE ARE NO SDVOB GOALS

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (SDVOB), thereby further integrating such businesses into New York State's economy. DOCCS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of DOCCS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, DOCCS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

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Sample Letter for Notice of Acceptance or Deficiency

Department Letter Head

(see Directive #0008, "Use of Department Stationery & Business Cards")

DATE

NAME

TITLE

COMPANY

STREET ADDRESS

CITY, STATE ZIP

Re: CONTRACT NUMBER
CONTRACT NAME
Amount:

Dear NAME:

I have received your Utilization Plan for the above-referenced project. Upon review, the SDVOB firm(s) listed on **Appendix X** are approved for utilization. Based on your submittal, your firm has a shortfall of % (\$) *SDVOB participation*. The contractually required M/SDVOB participation for this contract 6%.

According to NY State Executive Law Article 17-B, all contractors are required to make a good faith effort to solicit SDVOB participation on DOCCS' funded contracts. It appears that **COMPANY NAME** has not met those requirements. For assistance in identifying NYS Certified SDVOB sub-contractors/suppliers, please proceed to the OGS website: <https://online.ogs.ny.gov/SDVOB/search>. I am requesting that you submit a revised Utilization Plan along with any good faith efforts by close of business **DAY AND DATE**.

I have attached additional vendor information in the industry that may be of assistance to you in fulfilling the SDVOB goals of this contract.

If you have any questions, you may contact me at (xxx) xxx-xxxx ext. xxxx.

Sincerely,

APPENDIX

SOLICITATION AND CONTRACT TEXT FOR SET ASIDE PROCUREMENTS

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (SDVOB), thereby further integrating such businesses into New York State's economy. DOCCS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of DOCCS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

DOCCS established this procurement as a set aside contract pursuant to 9 NYCRR § 252.2(j). Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of other SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>.

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.